

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

LAKSHMANAN PONNAYAN ACHARI, et al.,

Plaintiffs,

v.

SIGNAL INTERNATIONAL, LLC, et al.,

Defendants.

Civ. No. 1:13-CV-00222-LG-JMR

**MEMORANDUM OF LAW IN SUPPORT OF THE MOTION OF PLAINTIFFS FIRST
NAMED IN THE AMENDED COMPLAINT TO DISMISS WITHOUT PREJUDICE
THEIR CLAIMS AGAINST DEFENDANT MICHAEL POL**

On May 21, 2013, thirty-three plaintiffs¹ filed a complaint (the “Complaint”) alleging several causes of action against Defendants Signal International, LLC, Signal International, Inc., Malvern C. Burnett, the Law Offices of Malvern C. Burnett, Gulf Coast Immigration Law Center, LLC, Sachin Dewan, Dewan Consultants Pvt. Ltd., Michael Pol, and Global Resources Inc., arising from Defendants’ fraudulent manipulation and trafficking of plaintiffs to work in abhorrent conditions at Signal International, LLC’s and Signal International, Inc.’s Pascagoula facility. Doc. No. 1. After the Complaint was filed, plaintiffs’ counsel received numerous referrals for new clients who wished to join the action against Defendants. Plaintiffs’ counsel filed an amended complaint (the “Amended Complaint”) as a matter of course on August 1,

¹ Lakshmanan Ponnayan Achari, Kodakeril Baby Biji, Xavier Disoliyan, Rajankunju Geevarghese, Jomon George, Shaiju Vadakkal George, Mouleswararao Guntamukkala, Joy Jacob, Biju John, Shibu Joseph, Raveendranathan Mookaparambil Itty, Sunilkumar Marottikkal Kuttan, Parshottam Ramchandra Mangani, Prakash Moses Kanagiah Manonmoni, Adharsan Manuel, Jacob Mazhukkattu Mathew, Johny Mathew, Nandhakumar Nagaraj, Shaji Veluthalakuzhiyil Nanoo, Mangalan Chandrasekharan Pillai, Radhakrishna Pillai Sivarama Pillai, Aby Molathu Poulose, Justin Poulose, Appunni Arul Prakash, Sreenivasarao Raparth, Balwinder Singh, Ranjit Singh, Shanmugam Subramanian, Ninan John Tharakan, George Pulikkeparambil Varghese, Benny Kattukariyil Varkey, Shahi Vijayan, and John Yohannan (collectively, the “Original Plaintiffs”).

2013, adding fourteen new plaintiffs to the action—Varghese Varkey Abraham, Subhashithan Bahuleyan, Praveen Kulathum Muriyil Gopalakrishnan, Eldose Isac, Thansilas Joseph, Kulath Somanathan Kalayam, Bhaskaran Sreedharan Kutty, Nibu Raju, Savinder Singh, Kittayi Sunil Kumar Therattil, Moni Panikulangara Thomas, Thenooran Kumaran Unnikrishnan, Benny Chittilappilly Vareed, and the Estate of Kuliyanickal Paily Varghese (collectively, the “Amended Plaintiffs”). Doc. No. 26. The Amended Complaint did not assert new causes of action against any Defendant. *Id.*

Defendant Michael Pol filed a petition for Chapter 7 bankruptcy on June 13, 2013, prior to the filing of the Amended Complaint. By virtue of the bankruptcy proceeding, claims against him are stayed pursuant to 11 U.S.C. § 362(a). See Notice of Chapter 7 Bankruptcy Case (Exhibit A to the accompanying Motion). To the extent that the Amended Plaintiffs assert new claims against Pol that could have been brought prior to the commencement of his Chapter 7 bankruptcy proceeding and were not asserted in the original Complaint, such claims may be subject to the automatic stay. The Amended Plaintiffs thus respectfully request a Court order dismissing their claims against Defendant Pol *nunc pro tunc* to August 1, 2013, the date the Amended Complaint was filed.² Given the short period of time that has elapsed since the filing of the Amended Complaint and the lack of any further filings requiring Pol’s response, the filing of the Amended Complaint has not resulted in prejudice to Pol or any other Defendant.

WHEREFORE, the Amended Plaintiffs respectfully request that the Court dismiss without prejudice their claims against Pol *nunc pro tunc* to August 1, 2013, and grant such further relief as may be just and proper.

² Because the Original Plaintiffs’ claims were filed prior to Pol’s bankruptcy, the Original Plaintiffs do not seek dismissal of their claims against Pol. *See In re Gronczewski*, 444 B.R. 526, 530 (Bankr. E.D. Pa. 2011) (finding that filing an amended complaint after a debtor-defendant files for bankruptcy does not violate the automatic stay where it merely restates existing claims against the debtor-defendant).

Dated: August 27, 2013

Respectfully submitted,

LATHAM & WATKINS LLP

By: s/H. Gregory Baker

H. Gregory Baker, *pro hac vice*
Miles N. Ruthberg, *pro hac vice*
Benton J. Campbell, *pro hac vice*
Christopher Harris, *pro hac vice*
Jennifer Greenberg, *pro hac vice*
Daniel D. Adams, *pro hac vice*
Elizabeth C. Rowland, *pro hac vice* to be filed
Aaron M. Safane, *pro hac vice* to be filed
885 Third Avenue
New York, New York 10022
Tel: (212) 906-1200
Fax: (212) 751-4864
E-mail: miles.ruthberg@lw.com
E-mail: benton.campbell@lw.com
E-mail: christopher.harris@lw.com
E-mail: gregory.baker@lw.com
E-mail: jennifer.greenberg@lw.com
E-mail: daniel.adams@lw.com
E-mail: elizabeth.rowland@lw.com
E-mail: aaron.safane@lw.com

MCDUFF & BYRD

By: s/ Robert B. McDuff

Robert B. McDuff, MS Bar No. 2532
Sibyl C. Byrd, MS Bar No. 100601
Jacob W. Howard, MS Bar No. 103256
767 North Congress Street
Jackson, Mississippi 39202
Tel: (601) 969-0802
Fax: (601) 969-0804
E-mail: rbm@mcdufflaw.com
E-mail: scb@mcdufflaw.com
E-mail: jake@mcdufflaw.com

Attorneys for the Amended Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2013, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of an electronic filing to all CM/ECF participants. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to non-CM/ECF participants.

s/H. Gregory Baker _____

H. Gregory Baker, *pro hac vice*